

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

DARWIN C. EDWARDS, AH9825,

Plaintiff,

v.

ROSELLE BRANCH, M.D.,

Defendant.

Case No. [16-cv-06668-CRB](#) (PR)

**ORDER GRANTING MOTION  
FOR SUMMARY JUDGMENT**

(ECF Nos. 23 & 32)

Plaintiff Darwin C. Edwards, a prisoner currently incarcerated at California State Prison, Corcoran (CSP – Corcoran), filed a pro se complaint under 42 U.S.C. § 1983 alleging inadequate medical care while he was incarcerated at: (1) the California Training Facility (CTF) from early 2014 through January 2016, (2) Chuckawalla Valley State Prison (CVSP) from January 2016 through September 2016, and (3) Valley State Prison (VSP) from September 2016 through November 2016. Plaintiff was transferred to CSP – Corcoran shortly after he filed this action.

Per order filed on May 24, 2017, the court (Ryu, M.J.) found that plaintiff’s allegations that, while he was incarcerated at CTF, Dr. Roselle Branch failed to treat his right sided inflammation and pain state a cognizable § 1983 claim for damages against Dr. Branch for deliberate indifference to serious medical needs in violation of the Eighth Amendment and ordered the United States Marshal to serve Dr. Branch at CTF. The court dismissed plaintiff’s claims for damages against the named prison officials at CVSP and VSP without prejudice to filing in the proper venue (Central District and Eastern District, respectively) and dismissed as moot any claims for injunctive relief against the named prison officials at CTF, CVSP and VSP.<sup>1</sup>

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<sup>1</sup> Although the magistrate judge dismissed claims without the consent of all named defendants, the undersigned has reviewed de novo plaintiff’s complaint and similarly dismisses plaintiff’s claims for damages against the named prison officials at CVSP and VSP without prejudice to filing in the proper venue and dismisses as moot any claims for injunctive relief against the named prison

Dr. Branch now moves for summary judgment under Federal Rule of Civil Procedure 56 on the ground that there are no material facts in dispute and that she is entitled to judgment as a matter of law. Plaintiff has filed an opposition and Dr. Branch has filed a reply.

### BACKGROUND

Unless otherwise noted, the following facts are undisputed:

While plaintiff was incarcerated at CTF, he complained of “stomach” and “right side inflammation and pain.” Compl. (ECF No. 1) ¶ 5. Dr. Branch and other health care providers at CTF ordered and showed plaintiff various labs and tests that came back normal, and had plaintiff “complete[]” treatment for *Helicobacter Pylori* (bacterial infection of the stomach and duodenum causing frequent abdominal pain).” Branch Decl. (ECF No. 23-2) ¶ 4. But plaintiff continued to complain of “hepatis diabetic-like symptoms.” Compl. ¶ 12.

By July 1, 2014, Dr. Branch began to wonder if plaintiff had a “somatoform disorder, which refers to a syndrome consisting of physical findings that cause substantial distress and psychosocial impairment and are not explained by a known general medical disease,” and decided to refer him to mental health. Branch Decl. ¶ 5.

Despite her suspicion of a somatoform disorder, on July 15, 2014 Dr. Branch sent plaintiff to Natividad Medical Center for an upper GI endoscopy (EGD). “Nothing [remarkable] was found and the examining doctor assessed plaintiff’s condition as Gastritis (inflammation of the stomach lining).” *Id.* ¶ 6; accord EGD Report at 1-2 (ECF No. 1-3 at 3-4).

On August 8, 2014, Dr. Branch sent plaintiff for a CT scan of his abdomen. The CT scan report noted that “[t]he liver, gallbladder, bile ducts, spleen, pancreas, left kidney, and adrenal glands are unremarkable. There is a small cyst in the lower pole [of] the right kidney.” CT Scan Report at 1 (ECF No. 1-3 at 11). The report also noted that “[t]he visualized gastrointestinal tract is unremarkable without evidence of obstruction or inflammatory pathology. The appendix is visualized as a normal structure.” *Id.* The radiologist concluded, “No intra-abdominal pathology identified.” *Id.* Plaintiff “claimed the test had not been done correctly.” Branch Decl. ¶ 7.

By March 16, 2015, plaintiff still believed that he was diabetic and had hepatitis, “despite numerous tests and assurances that he did not have these problems.” *Id.* ¶ 9; accord Mar. 30, 2016 Second Level HC Appeal Response at 1-2 (ECF No. 1-2 at 75-76) (summarizing lab reports showing plaintiff was not diabetic and did not have hepatitis).

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officials at CTF, CVSP and VSP.

1 On September 4, 2015, Dr. Branch requested a renal ultrasound in response to plaintiff's  
2 persistent complaints of right flank pain. "The results were returned on September 22, 2015 as  
3 unremarkable, normal kidneys and bladder." Branch Decl. ¶ 11.

4 On September 16, 2015, an interdisciplinary meeting was convened to discuss how best to  
5 treat plaintiff. The meeting was attended by Dr. Branch, nurses Grant and Deluna, and  
6 psychologists Keller and Wynn. "It was concluded that plaintiff should continue to receive  
7 medical and mental health care as needed." Id. ¶ 12.

8 By November 21, 2015, plaintiff's primary diagnosis was listed as somatoform disorder.  
9 "Somatization disorder is believed to be due to psychological causes." Id. ¶ 13.

10 On January 4, 2016, plaintiff was transferred to CVSP. "A mental health referral for his  
11 history of Somatization disorder was ordered." Id. ¶ 14.

## 12 DISCUSSION

### 13 A. Standard of Review

14 Summary judgment is proper where the pleadings, discovery and affidavits show that there  
15 is "no genuine dispute as to any material fact and the [moving party] is entitled to judgment as a  
16 matter of law." Fed. R. Civ. P. 56(a). Material facts are those which may affect the outcome of  
17 the case. Anderson v. Liberty Lobby, Inc., 477 U.S. 242, 248 (1986). A dispute as to a material  
18 fact is genuine if there is sufficient evidence for a reasonable jury to return a verdict for the  
19 nonmoving party. Id.

20 The moving party for summary judgment bears the initial burden of identifying those  
21 portions of the pleadings, discovery and affidavits which demonstrate the absence of a genuine  
22 issue of material fact. Celotex Corp. v. Cattrett, 477 U.S. 317, 323 (1986). Where the moving  
23 party will have the burden of proof on an issue at trial, it must affirmatively demonstrate that no  
24 reasonable trier of fact could find other than for the moving party. But on an issue for which the  
25 opposing party will have the burden of proof at trial, as is the case here, the moving party need  
26 only point out "that there is an absence of evidence to support the nonmoving party's case." Id.

27 Once the moving party meets its initial burden, the nonmoving party must go beyond the  
28 pleadings to demonstrate the existence of a genuine dispute of material fact by "citing to specific  
29 parts of materials in the record" or "showing that the materials cited do not establish the absence  
30 or presence of a genuine dispute." Fed. R. Civ. P. 56(c). A triable dispute of material fact exists  
31 only if there is sufficient evidence favoring the nonmoving party to allow a jury to return a verdict

1 for that party. Anderson, 477 U.S. at 249. If the nonmoving party fails to make this showing, “the  
2 moving party is entitled to judgment as a matter of law.” Celotex, 477 U.S. at 323.

3 There is no genuine issue for trial unless there is sufficient evidence favoring the  
4 nonmoving party for a jury to return a verdict for that party. Anderson, 477 U.S. at 249. If the  
5 evidence is merely colorable, or is not significantly probative, summary judgment may be granted.  
6 Id. at 249-50.

7 B. Analysis

8 Prison officials violate the Eighth Amendment if they are “deliberate[ly] indifferen[t] to [a  
9 prisoner’s] serious medical needs.” Estelle v. Gamble, 429 U.S. 97, 104 (1976). A medical need is  
10 serious if failure to treat it will result in “significant injury or the unnecessary and wanton  
11 infliction of pain.” Peralta v. Dillard, 744 F.3d 1076, 1081 (9th Cir. 2014) (en banc) (citation and  
12 internal quotation marks omitted). A prison official is “deliberately indifferent” to that need if she  
13 “knows of and disregards an excessive risk to inmate health.” Farmer v. Brennan, 511 U.S. 825,  
14 837 (1994).

15 A difference of opinion between a prisoner and a physician – or between medical  
16 professionals – concerning what medical care is appropriate does not amount to deliberate  
17 indifference. Snow v. McDaniel, 681 F.3d 978, 987 (9th Cir. 2012); Sanchez v. Vild, 891 F.2d  
18 240, 242 (9th Cir. 1989). Even proof that a physician was negligent or committed medical  
19 malpractice is insufficient to make out a violation of the Eighth Amendment. Farmer, 511 U.S. at  
20 835-36 & n.4; Toguchi v. Chung, 391 F.3d 1051, 1058, 1060 (9th Cir. 2004). To show deliberate  
21 indifference in violation of the Eighth Amendment, the prisoner-plaintiff must show that the  
22 course of treatment the doctors chose was medically unacceptable under the circumstances and  
23 that they chose this course in conscious disregard of an excessive risk to plaintiff’s health. Snow,  
24 681 F.3d at 988; Toguchi, 391 F. 3d at 1058; Jackson v. McIntosh, 90 F.3d 330, 332 (9th Cir.  
25 1996).

26 Plaintiff claims that Dr. Branch was deliberately indifferent to his serious medical needs  
27 because she discounted his complaints of right sided inflammation and pain as “unfounded or  
28 made up in his head.” Compl. ¶ 10. But the undisputed evidence in the record shows that Dr.  
Branch did not disregard plaintiff’s complaints. Despite her documented belief that plaintiff may

1 have had a somatoform disorder, Dr. Branch referred plaintiff for an EGD, abdominal CT scan and  
2 renal ultrasound, and ordered various laboratory tests. None of these studies or tests showed any  
3 internal obstruction, inflammation or pathology, or indicated that plaintiff had diabetes or  
4 hepatitis. Plaintiff's contention that Dr. Branch should have questioned the results of the  
5 studies/tests and done more is not enough for a reasonable jury to find that she was deliberately  
6 indifferent to plaintiff's serious medical needs. Plaintiff sets forth no evidence showing that the  
7 studies/tests were unreliable and that Dr. Branch knew this and ignored it, or that Dr. Branch  
8 ignored any other obvious risk to plaintiff's health. See Toguchi, 391 F.3d at 1057 & n.4 (prison  
9 official does not violate 8th Amendment if she should have been aware of risk, but was not).

10 Dr. Branch is entitled to summary judgment on plaintiff's § 1983 claim for damages for  
11 deliberate indifference to serious medical needs. Despite his assertions to the contrary, plaintiff  
12 has not set forth any probative evidence for a reasonable jury to find that the course of treatment  
13 Dr. Branch chose was medically unacceptable under the circumstances and that she chose this  
14 course in conscious disregard of an excessive risk to plaintiff's health. See Snow, 681 F.3d at  
15 988; Toguchi, 391 F. 3d at 1058; Jackson, 90 F.3d at 332. That plaintiff's symptoms allegedly  
16 continued at CVSP, VSP and CSP – Corcoran does not compel a different conclusion.<sup>2</sup>

17 /

## 18 CONCLUSION

19 For the foregoing reasons, Dr. Branch's motion for summary judgment (ECF No. 23) is  
20 GRANTED.

21 **IT IS SO ORDERED.**

22 Dated: July 30, 2018



23 CHARLES R. BREYER  
24 United States District Judge

25  
26  
27 <sup>2</sup>Plaintiff's motion (ECF No. 32) for a court order requiring CSP – Corcoran officials to refer him  
28 to a private medical facility for various tests is DENIED without prejudice to bringing in a  
separate action in the Eastern District of California, where CSP – Corcoran lies.

1  
2 UNITED STATES DISTRICT COURT  
3 NORTHERN DISTRICT OF CALIFORNIA  
4

5 DARWIN C. EDWARDS,  
6 Plaintiff,

7 v.

8 ROSELLE BRANCH,  
9 Defendant.

Case No. 3:16-cv-06668-CRB

**CERTIFICATE OF SERVICE**


10 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S.  
11 District Court, Northern District of California.  
12

13 That on July 30, 2018, I SERVED a true and correct copy(ies) of the attached, by placing  
14 said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by  
15 depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery  
16 receptacle located in the Clerk's office.  
17

18 Darwin C. Edwards ID: AH9825  
19 CSATF G2-32-4 up  
20 P.O. Box 5244  
21 Corcoran, CA 93212

22 Dated: July 30, 2018

23 Susan Y. Soong  
24 Clerk, United States District Court

25 By:   
26 Lashanda Scott, Deputy Clerk to the  
27 Honorable CHARLES R. BREYER  
28